

IRS can decide whether to assess a penalty. If an employer timely resubmits the reports as corrected magnetic media reports, but they are unprocessable or out of balance on W-2 money totals, SSA will return the resubmitted reports for the second and last time for the employer to correct and return to SSA. SSA will enclose with the resubmitted and returned forms a letter informing the employer that he or she must correct and return the reports to SSA within 45 days or be subject to IRS penalties for late filing.

(d) *Paper form reporting requirements.* The format and wage reporting instructions for paper forms are determined jointly by IRS and SSA. Basic instructions on how to complete the forms and file them with SSA are provided in IRS forms materials available to the public. In addition, SSA provides standards for employers (or third parties who file wage reports for them) to follow in producing completed reporting forms from computer software; these standards appear in SSA publication, "Software Specifications and Edits for Annual Wage Reporting." Requests for this publication should be sent to: Social Security Administration, Office of Financial Policy and Operations, Attention: AWR Software Standards Project, P.O. Box 17195, Baltimore, MD 21235.

(e) *Processing late and incorrect paper form reports.* If SSA receives paper form wage reports after the due date, SSA will notify IRS of the late filing so that IRS can decide whether to assess penalties for late filing, pursuant to section 6721 of the Internal Revenue Code. SSA will ask an employer to provide replacement forms for illegible, incomplete, or clearly erroneous paper reporting forms, or will ask the employer to provide information necessary to process the reports without having to resubmit corrected forms. (For wage reports where earnings are reported without a social security number or with an incorrect name or social security number, see § 422.120.) If an employer fails to provide legible, complete, and correct W-2 reports within 45 days, SSA may identify the employers to IRS for assessment of employer reporting penalties.

(f) *Reconciliation of wage reporting errors.* After SSA processes wage reports, it matches them with the information provided by employers to the IRS on Forms 941, "Employer's Quarterly Federal Tax Return," for that tax year. Based upon this match, if the total social security or medicare wages reported to SSA for employees is less than the totals reported to IRS, SSA will write to the employer and request corrected reports or an explanation for the discrepancy. If the total social security or medicare wages reported to SSA for employees is more than the totals reported to IRS, IRS will resolve the difference with the employer. If the employer fails to provide SSA with corrected reports or information that shows the wage reports filed with SSA are correct, SSA will ask IRS to investigate the employer's wage and tax reports to resolve the discrepancy and to assess any appropriate reporting penalties.

[60 FR 42433, Aug. 16, 1995]

§ 422.120 Earnings reported without a social security number or with an incorrect employee name or social security number.

(a) *Correcting an earnings report.* If an employer reports an employee's wages to SSA without the employee's social security number or with a different employee name or social security number than shown in SSA's records for him or her, SSA will write to the employee at the address shown on the wage report and request the missing or corrected information. If the wage report does not show the employee's address or shows an incomplete address, SSA will write to the employer and request the missing or corrected employee information. SSA notifies IRS of all wage reports filed without employee social security numbers so that IRS can decide whether to assess penalties for erroneous filing, pursuant to section 6721 of the Internal Revenue Code. If an individual reports self-employment income to IRS without a social security number or with a different name or social security number than shown in SSA's records, SSA will write to the individual and request the missing or corrected information. If

the employer, employee, or self-employed individual does not provide the missing or corrected report information in response to SSA's request, the wages or self-employment income cannot be identified and credited to the proper individual's earnings records. In such cases, the information is maintained in a "Suspense File" of uncredited earnings. Subsequently, if identifying information is provided to SSA for an individual whose report is recorded in the Suspense File, the wages or self-employment income then may be credited to his or her earnings record.

(b) *Returning incorrect reports.* SSA may return to the filer, unprocessed, an employer's annual wage report submittal if 90 percent or more of the wage reports in that submittal are unidentified or incorrectly identified. In such instances, SSA will advise the filer to return corrected wage reports within 45 days to avoid any possible IRS penalty assessment for failing to file correct reports timely with SSA. (See also § 422.114(c).) Upon request, SSA may grant the employer a 15-day extension of the 45-day period.

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§ 422.122 Information on deferred vested pension benefits.

(a) *Claimants for benefits.* Each month, SSA checks the name and social security number of each new claimant for social security benefits or for hospital insurance coverage to see whether the claimant is listed in SSA's electronic pension benefit record. This record contains information received from IRS on individuals for whom private pension plan administrators have reported to IRS, as required by section 6057 of the Internal Revenue Code, as possibly having a right to future retirement benefits under the plan. SSA sends a notice to each new claimant for whom it has pension benefit information, as required by section 1131 of the Act. If the claimant filed for the lump-sum death payment on the social security account of a relative, SSA sends the claimant the pension information on the deceased individual. In either case, SSA sends the notice after it has made a decision on the claim for benefits. The notice shows the type, payment

frequency, and amount of pension benefit, as well as the name and address of the plan administrator as reported to the IRS. This information can then be used by the claimant to claim any pension benefits still due from the pension plan.

(b) *Requesting deferred vested pension benefit information from SSA files.* Section 1131 of the Act also requires SSA to provide available pension benefit information on request. SSA will provide this pension benefit information only to the individual who has the pension coverage (or a legal guardian or parent, in the case of a minor, on the individual's behalf). However, if the individual is deceased, the information may be provided to someone who would be eligible for any underpayment of benefits that might be due the individual under section 204(d) of the Act. All requests for such information must be in writing and should contain the following information: the individual's name, social security number, date of birth, and any information the requestor may have concerning the name of the pension plan involved and the month and year coverage under the plan ended; the name and address of the person to whom the information is to be sent; and the requester's signature under the following statement: "I am the individual to whom the information applies (or "I am related to the individual as his or her _____"). I know that if I make any representation which I know is false to obtain information from Social Security records, I could be punished by a fine or imprisonment or both." Such requests should be sent to: Social Security Administration, Office of Central Records Operations, P.O. Box 17055, Baltimore, Maryland 21235.

[60 FR 42434, Aug. 16, 1995]

§ 422.125 Statements of earnings; resolving earnings discrepancies.

(a) *Obtaining a statement of earnings and estimated benefits.* An individual may obtain a statement of the earnings on his earnings record and an estimate of social security benefits potentially payable on his record either by writing, calling, or visiting any social security office, or by waiting until we send him one under the procedure described in